

### **REMARKS**

The enclosed is responsive to the Examiner's Office Action mailed on October 12, 2007. At the time the Examiner mailed the Office Action claims 1-39 were pending. By way of the present response the Applicants have: 1) amended claims 4, 14, 17 and 30; 2) added no new claims; and 3) canceled no claims. As such, claims 1-39 are now pending. The Applicants respectfully request reconsideration of the present application and the allowance of all claims now presented.

### **Drawing Objections**

The drawings are objected to because they fail to comply with 37 CFR 1.84 (l), (m), (p)(3). Figures 6B, 9A-9E, 15B, and 19B-19E have been amended and are being submitted herewith as Replacement Sheets.

### **Claim Rejections**

#### **35 U.S.C. 101 Rejections**

In the Office Action, Claims 14-39 were rejected under 35 U.S.C. 101. Specifically, Claims 14-26 were rejected because they "appear to merely set forth functional descriptive material per se, which is non-statutory" and Claims 27-39 were rejected "as embracing propagation media including data signals embodied in a carrier wave."

Claims 14-26 have been amended to claim a computer system comprising a memory for storing program code and a processor for processing the program code to perform a series of operations. The operations correspond to the operations performed by method Claim 1. Accordingly, Applicant respectfully submit that the rejections to Claims 14-26 have been overcome.

With respect to Claims 27-39, the specification has been amended to remove the description of propagation media under the definition of machine-readable medium. Accordingly, Applicants submit that the rejection under 35 U.S.C. 101 has been overcome.

#### 35 U.S.C. 112 Rejections

Claims 4, 17 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. While Applicants do not necessarily agree with the Examiner (a search on the USPO Website reveals 1803 patents with Java in the claims) Applicants have nonetheless removed the term "Java" from the claims in place of the term "object-oriented." As such, Applicants respectfully submit that the rejection under 35 U.S.C. 112 have been overcome.

### 35 U.S.C. 102(e) Rejections

Claims 1-3, 5-12, 14-16, 18-25, 27-29 and 31-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Berry, et al., U.S. Patent 6,662,359 (hereinafter "Berry") and Claims 13, 26 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Berry, et al., U.S. Patent 6,662,359 (hereinafter "Berry") and Cuomo, et al., U.S. Patent 6,836,878 (hereinafter "Cuomo").

Among other things, the Office Action states that Berry discloses a method for tracing program flow within an application, comprising: providing options for modifying bytecode of the application at a plurality of levels of precision, each of the levels of precision specifying a particular set of methods of the application to be traced. Applicants respectfully disagree with this interpretation of Berry. The portions of Berry identified as containing these features read, in pertinent part:

FIG. 5 illustrates the steps of transforming the class file components and then reconstructing the class file, specifically for the purpose of adding performance instrumentation code at the entry and exit of every method contained in the class file. (Berry, col. 5, lines 59-63).

. . . Selective instrumentation is possible if only some of the methods are to be instrumented. In the described embodiment, an inclusion/exclusion list is used to specify which methods are to be instrumented. (Berry, col. 7, lines 5-6).

Thus, Berry merely discloses that different methods (or all methods) may be selected for tracing using an inclusion/exclusion list. However, Berry does not disclose or suggest providing options for modifying bytecode of the application at a plurality of levels of precision, each of the levels of precision specifying a

particular set of methods of the application to be traced. Providing options for modifying bytecode at different levels of precision (e.g., package level, class level, method level, etc) is very different from allowing piecemeal selection of individual methods as recited in Berry.

Accordingly, Applicants respectfully submit that independent claims 1, 14 and 27 include features which are neither disclosed nor suggested in Berry. Because dependent claims 2-13, 15-26, and 28-39 include these same limitations, Applicants submit that all claims are in condition for allowance.

### CONCLUSION

Applicant respectfully submits that all rejections have been overcome and that all pending claims are in condition for allowance.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Thomas C. Webster at (408) 720-8300.

Respectfully Submitted,  
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